

IN THE CHANCERY COURT OF PULASKI COUNTY, ARKANSAS  
THIRD DIVISION

STATE OF ARKANSAS ex rel.  
WINSTON BRYANT, ATTORNEY GENERAL

PLAINTIFF

V.

No. 92-631

CONSUMERS' BUYLINE, INC.,  
KEITH RANIERE, JAMES RANIERE,  
PAMELA CAFRITZ AND KAREN UNTERREINER

DEFENDANTS

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AGREED FINAL JUDGMENT AND ORDER

Plaintiff, the State of Arkansas ex rel. Winston Bryant, Attorney General (hereinafter referred to as "The Attorney General"), represented by Deputy Attorney General Kay DeWitt, and Defendants, Consumers' Buyline, Inc. (hereinafter referred to collectively as "CBI" or "Defendants"), Keith Ranieri, Pamela Cafritz, Karen Unterreiner and James Ranieri, as evidenced by their signatures, do consent to entry of this Judgment and Order and the provisions herein. The parties agree that no provision of this Agreed Final Judgment and Order constitutes an admission of liability or fault by Defendants. In order to avoid further litigation, and solely for the purpose of settling this dispute, while denying the allegations of the Complaint, Defendants agree to be bound by the provisions of this Agreed Final Judgment and Order.

This Agreed Final Judgment and Order is given by the named Defendants to the Attorney General of the State of Arkansas in order to settle litigation brought by the Attorney General alleging violations of Arkansas law by Defendants.

WHEREAS, the State of Arkansas has initiated litigation claiming that the business practices of Defendants are in violation of the Arkansas Deceptive Trade Practices Act, Ark. Code Ann. §4-88-101, et seq. and Arkansas' Anti-Lottery Statute, Ark. Code Ann. §5-66-119(a); and

WHEREAS, Defendants acknowledge the jurisdiction of this Court, but deny that they have violated Arkansas law; and

WHEREAS, all parties have agreed to resolve the dispute;

NOW THEREFORE, without admitting to any prior wrongdoing, Defendants agree from the date of the execution of this Agreed Final Judgment and Order for themselves, their successors, assigns, independent contractors, agents, employees, salespersons and all other persons acting on their behalf, individually and collectively, directly or through any corporate or other device as follows:

#### DEFINITIONS

1. "Affiliate" means any individual authorized by CBI to market CBI memberships and recruit other marketers.

2. "Member" means any individual that has purchased a CBI membership.

3. "Membership" means the package of services and products made available to CBI Members by CBI or by parties representing and/or contracting with CBI.

### JURISDICTION

This Agreement involves the Defendants' business practice of multi-level marketing utilized to sell memberships in the State of Arkansas. Jurisdiction of the courts of the State of Arkansas over the subject matter of this action and this Agreed Final Judgment and Order is admitted. In personam jurisdiction of the courts of the State of Arkansas over all Defendants is admitted. Jurisdiction of the courts of the State of Arkansas shall be continuing and shall be retained for the purpose of entertaining future petitions brought by the Attorney General.

### ATTORNEY GENERAL'S ALLEGATIONS

Defendant CBI is a New York corporation with its principal place of business located at 100 Sitterly Road, Clifton Park, New York 12065, and is engaged in trade and commerce within the State of Arkansas, to wit, the operation of a multi-level marketing business and membership organization providing access to consumer related services, which memberships are sold in the State of Arkansas by representatives known as Affiliates, some of whom are residents of the State of Arkansas. Defendants Keith Raniere, Karen Unterreiner and Pamela Cafritaz are Officers and Directors of CBI. Defendant James Raniere is a Director of CBI.

As a result of its investigation into Defendants' marketing practices, the Attorney General believes that Defendants have engaged in conduct violative of the Arkansas Deceptive Trade Practices Act, Ark. Code Ann. §4-88-101, et seq. and Arkansas'

Anti-Lottery Statute, Ark. Code Ann. §5-66-119(a), as follows:

1. Defendants' marketing practices have violated Ark. Code Ann. §4-88-101 and in particular §4-88-109 by contriving, preparing, setting up, proposing or operating a pyramiding device whereby participants pay valuable consideration for the chance to receive compensation primarily from introducing one (1) or more additional persons into participation in the scheme or for the chance to receive compensation when a person introduced by the participant introduces a new participant;

2. In the course of marketing their program, Defendants, their agents, servants, employees and/or representatives have made representations either directly or by implication which constitute the use of fraud, deception and false pretenses, which constitute violations of Ark. Code Ann. §4-88-107(a)(1); §4-88-107(a)(3); §4-88-107(b) and §4-88-108; and,

3. In the course of marketing their program, Defendants have engaged in a lottery in violation of Ark. Code Ann. §5-66-119(a), by promoting, engaging in, or participating in a scheme whereby goods, property, or any thing of value is sold to a person, firm, or corporation for any consideration, and upon further consideration that the purchaser shall agree to obtain one or more persons to participate in the plan or scheme by making a similar purchase and a similar agreement to secure one or more other persons to participate therein in the same manner, each person being given the same right to obtain money.



credits, goods or some other thing of value, depending upon the number of people joining in or participating in the plan.

#### BUSINESS PRACTICES

Accordingly, in order to resolve this dispute without further litigation, it is hereby agreed by Defendants that immediately upon execution of this agreement, Defendants shall do the following:

. A. Defendants shall refrain from engaging in the marketing and promotion of an illegal pyramid as defined by Ark. Code Ann. §4-88-109. Defendants shall also refrain from promoting or operating a lottery as defined by Ark. Code Ann. §5-66-119(a).

B. Defendant shall make the following changes in its program to ensure that all prospective Members are made aware, prior to purchase of the membership, that the purchase of a membership is in no way necessary in order to become or remain a commission earning Affiliate of CBI, nor does the purchase of a membership have any beneficial affect on the commissions paid to CBI Affiliates:

- (1) Defendants shall adopt, implement and strictly oversee and control the "Team Leader Program", as described in Attachment "A" hereto incorporated herein by reference and made a part of this Order as if set out word for word for purposes of

training and monitoring Defendants' Affiliate sales force. Defendants shall not accept any membership or Affiliate application from any Arkansas resident until and unless the sponsoring Affiliate has been certified in accordance with the requirements set forth in Attachment "A" and unless the presentation to the applicant, prospective Member or Affiliate was made at a registered meeting pursuant to paragraph I(2) of this Agreed Final Judgment and Order. This shall apply to all sales made in Arkansas whether or not the sponsoring Affiliate is a resident of Arkansas.

- (2) Defendants shall take immediate disciplinary action against any Affiliate who has in any fashion contrived to mislead and/or has in fact misled any prospective Member and/or Affiliate into believing that purchase of a membership is necessary to participate as a CBI Affiliate, or against any Affiliate who fails to expressly advise the prospective Member that a membership is not necessary to participate as a CBI Affiliate. The disciplinary action set forth in paragraph I(4) of this Agreed Final Judgment and Order shall be the minimum disciplinary action taken.

- (3) Within fourteen (14) days of receiving a membership application, Defendants shall send to the new Member a letter clearly restating that purchase of the membership is not necessary in order to become an Affiliate . Such letter shall clearly state to the new Member that if he or she was at any time led to believe that the purchase of the membership was necessary in order to become an Affiliate, he or she is entitled to a full refund of all amounts paid and that Defendants shall make any such refund upon demand within thirty (30) days from demand. Defendants shall make full refunds to all individuals from whom they receive refund requests whether by mail or telephone. The aforementioned letter shall also clearly state that the new Member is entitled to a refund, pursuant to the same terms and conditions described above, if any facts regarding the operation of CBI's policies or procedures, or any terms of the membership were misrepresented to them.
- (4) Defendants shall hold, at their sole cost, Affiliate training sessions in at least one (1) location within the State of Arkansas within ninety (90) days from the filing of this Agreed

Final Judgment and Order. Such meetings shall include extensive, clear instruction as to the details of this Judgment and Order, and shall emphasize that all prospective Members and/or Affiliates shall be expressly informed that no membership purchase is necessary in order to become an Affiliate. All current Affiliates shall attend at least one (1) of these sessions and shall comply with the requirements in Attachment "A" prior to being eligible to sell memberships or recruit other Affiliates in the State of Arkansas. The Attorney General shall be notified of the date and location of each such training sessions at least seven (7) days prior to any such session being held.

- (5) Defendants shall take immediate disciplinary action against any Affiliate who has in any fashion contrived to mislead and/or has in fact misled any prospective member and/or Affiliate regarding any aspect of CBI. The disciplinary action set forth in paragraph I(4) of this Agreed Final Judgment and Order shall be the minimum disciplinary action taken.

C. Defendants shall amend, oversee and control their marketing policies and procedures as follows:

- (1) Defendants shall eliminate any requirement that



an Affiliate must sell one (1) membership for each Affiliate he/she recruits into the program.

- (2) Defendants shall not engage in marketing which has the effect of creating a one-to-one relationship between Members and Affiliates, and shall achieve a ratio of at least two (2) Members in Arkansas for each Affiliate. Specifically, Defendants' marketing plan shall be amended so that membership sales are no longer reflected on the Affiliate matrix, in order to encourage sales of memberships to persons who do not become Affiliates.
- (3) Defendants and their Affiliate shall not sell more than one (1) membership per household.
- (4) Defendants and their Affiliates shall not sell memberships to persons under the age of eighteen (18) years.
- (5) Defendants shall not pay commissions on the sale of a membership to an individual who also becomes an Affiliate within one (1) year prior to or after the purchase of such membership. This prohibition applies to commissions both to the Affiliate making the membership sale, and to any other upline Affiliate to whom a commission would

otherwise be payable. If commissions are paid on a membership sale and the same "individual" subsequently becomes an Affiliate within one (1) year, all such commissions will be deducted from future commission payments of the Affiliate paid for that membership sale. For purposes of this paragraph, all individuals residing in the same household will be considered a single "individual".

All marketing materials produced or approved by Defendants shall clearly reflect these changes. Additionally, Defendants shall within twenty (20) days of the filing of this Agreed Final Judgment and Order, instruct in writing each of its Affiliates who might sell in the State of Arkansas of the above terms and conditions. No marketing materials shall be utilized which are inconsistent with the terms and conditions set forth herein.

D. Defendants shall provide to all prospective Affiliates who are residents of the State of Arkansas, in a format subject to approval by the Attorney General, the percentage of Affiliates earning representative commission levels through participation as Affiliates for CBI who sell memberships in Arkansas and what percentage of those commissions were earned from sales made to Arkansas residents. All statistical data in such materials shall be updated on at least an annual basis.

E. Defendants shall ensure that all sales aids and

promotional materials relating to its products and/or marketing plans used in the State of Arkansas shall be consistent with this Judgment and the laws of the State of Arkansas. Without limiting this requirement, Defendants shall not provide application forms, nor accept any applications on forms which allow a person to become an Affiliate and a Member with a single application.

F. Defendants shall establish and maintain a toll-free consumer complaint telephone number with sufficient capacity to handle all incoming calls and such number shall be clearly displayed on all sales materials.

G. Defendants and their Affiliates shall not make any false or misleading claims about the benefits of CBI membership, the ability to earn income as a CBI Affiliate, or about any other matter.

H. Within thirty (30) days of filing this Agreed Final Judgment and Order, Defendants shall make a written offer of rescission on all contracts involving Arkansas residents. Such rescission shall be accomplished by mailing a letter, approved by the Attorney General, to all individuals in the State of Arkansas whom are Members of CBI or whom were ever members of CBI, offering to refund all membership fees paid to Defendants.

I. Defendants shall monitor all phases of activity in the State of Arkansas and shall ensure compliance with all terms and conditions set forth herein and in Arkansas law.

This action shall include, but not necessarily be limited to,

the following:

- (1) Within sixty (60) days of the filing of this Agreed Final Judgment and Order, Defendants shall designate, on a full time basis, at least one (1) individual to oversee and ensure compliance with this Agreed Final Judgment and Order;
- (2) Defendants shall, for a period of five (5) years from the filing of this Agreed Final Judgment and Order, notify the Attorney General, in writing, of all membership and Affiliate meetings to be held within the State of Arkansas at least seven (7) days prior to such meeting. Defendants shall henceforth accurately record all such meetings by audio and/or video tapes;
- (3) Defendants shall henceforth make available for inspection, by the Attorney General or his representatives, at their offices a complete and accurate list of all Members and Affiliates in the State of Arkansas, as well as any and all other documents and information in their possession concerning Members and Affiliates residing in Arkansas, or any other activity concerning the State of Arkansas. Alternatively, and at the sole option of the Attorney General, Defendants shall henceforth provide such documents and/or information to the Attorney



General, at a location designated by the Attorney General, within a reasonable period of time after such request not to exceed three (3) business days;

- (4) Defendant shall immediately discipline Affiliates found not to have complied with the terms and conditions outlined in this Agreed Final Judgment and Order and/or Arkansas law. Such disciplinary action shall consist of the following, at a minimum: termination of Affiliate status and return of all commissions paid to the Affiliate which involved a sale that violated the terms of this Agreed Final Judgment and Order. All money collected from the Affiliate under this provision shall be paid as part of the reward amount pursuant to paragraph (I)(5).

All terminations shall be published monthly in Defendants' Affiliate magazine and in all CBI materials circulated to Affiliates on a regular basis. All records of monitoring procedures and disciplinary action taken by CBI shall be compiled at least once a month and shall be sent to the Office of the Attorney General every two months for a period of five (5) years commencing within thirty-five (35) days of the filing of this Agreed Final Judgment and Order; and,

(5) Defendants shall offer monetary rewards to any individual who informs Defendants of any violation(s) of this Agreed Final Judgment and Order and/or violation(s) of Arkansas law. Availability of these rewards shall be displayed conspicuously on the front of both the Affiliate and Member applications, and shall also be published in any and all publications and/or materials distributed to Affiliates and Members. The aforementioned rewards shall be the commissions returned by the Affiliate pursuant to paragraph I(4) but in no event less than \$250. CBI shall pay this reward of at least \$250 within twenty (20) days of receiving the report and shall then pay any additional sums recovered from the Affiliate who was reported pursuant to paragraph I(4) which exceeds the \$250 within ten (10) days of receipt by CBI.

J. Defendants and their Affiliates shall fully disclose the cost of membership to prospective Members in any and all oral presentations and/or written sales materials. This shall include the full and conspicuous disclosure of any renewal fees. Defendants and their Affiliates shall make no misrepresentations to prospective Members of any kind. Defendants shall ensure that CBI Affiliates abide by these terms and conditions.

K. Defendants shall pay to the Attorney General the sum of \$20,000 per year for five (5) years to be used for monitoring and enforcing applicable State laws and judgments with respect to any company conducting multi-level marketing within the State of Arkansas. The Attorney General shall have sole discretion as to the manner for which said sum is utilized in Multi Level Marketing (MLM) monitoring and enforcement efforts. Defendants shall pay the first \$20,000 in \$5,000 payments: the first \$5,000 payment due on or before the date of the entry of this Agreed Judgment and Order, the second \$5,000 payment due 120 days following the entry of this Agreed Judgment and Order, the third \$5,000 payment due 240 days following this entry of this Agreed Judgment and Order and the fourth \$5,000 payment due on the anniversary date of the entry of this Agreed Judgment and Order. Each following \$20,000 payment shall be due on the first anniversary date of the entry of this Agreed Judgment and Order and each anniversary date thereafter until the total \$100,000 has been paid pursuant to this paragraph. Defendants shall be relieved of these payments only in the event a new agreement is entered between the parties whereby the Defendants cease all business in the State of Arkansas and have in fact ceased all business in the State of Arkansas for the preceeding fourteen (14) months.

L. Defendants shall notify in writing all Affiliates that the Attorney General does not condone or approve the business practices of CBI and that any contrary statement made by an Affiliate shall result in disciplinary action.

COSTS AND FEES

Upon the filing of this Agreed Final Judgment and Order, Defendants shall immediately pay to the Attorney General the amount of \$25,000. This payment shall be designated as a voluntary contribution to the Attorney General's Office to be utilized, at the sole discretion of the Attorney General, for enforcement of consumer protection laws, for costs including those of experts, economists and consultants in consumer protection litigation and/or investigations, and/or for consumer education purposes. The Attorney General shall have sole decision-making power in allocating said funds in connection with any of these purposes. p. 6

Moreover, in recognition of the existing litigation between the parties, Defendants shall immediately pay to the Attorney General, the sum of \$20,000 as compensation to cover investigative costs and expenses in the sum of \$5,000 and attorney's fees in the sum of \$15,000 arising out of the litigation between Defendants and the Attorney General. 51

The lawsuit filed by the Attorney General was brought under the Deceptive Trade Practices Act and requested civil



penalties, costs and attorneys fees, which are part of this negotiated Agreed Final Judgment and Order and as such, Defendants expressly recognize and agree that any sums due herein constitute a nondischargable debt in bankruptcy.

VIOLATION OF THIS AGREEMENT

Any actions contrary to the terms and conditions set forth in this Agreed Final Judgment and Order, by Defendants or any person acting in any capacity on their behalf, including Affiliates, shall subject Defendants to the maximum penalties of \$10,000 per violation pursuant to Ark. Code Ann. §4-88-113(C); as well as injunctive relief pursuant to Ark. Code Ann. §4-88-104 and §4-88-113(a)(1).

Defendants further agree that civil penalties in the sum of fifty thousand dollars (\$50,000.00) should be and are hereby assessed against Defendants and that the same are suspended conditioned upon the full compliance of Defendants or any person acting in any capacity on their behalf, including Affiliates, with the terms and conditions set forth in this Agreed Final Judgment and Order. The failure of Defendants, or any person acting in any capacity on their behalf, including Affiliates, to comply with any and all terms and conditions set forth herein shall result in these civil penalties being immediately collectable by the Attorney General by all means available to him under Arkansas law with respect to collecting

judgments including the Court's inherent contempt powers available to enforce its orders. Any and all such sums are deemed to be nondischargeable in a bankruptcy proceeding, recognizing that the same are punitive in nature.

ENFORCEMENT

It is agreed by the parties that jurisdiction is retained by this Court for the purpose of enforcing the terms and conditions of this Agreed Final Judgment and Order.

NOW THEREFORE, pursuant to this Agreed Final Judgment and Order the Defendants shall henceforth abide by each of the aforementioned provisions and this Agreed Final Judgment and Order shall be filed with the Chancery Court of Pulaski County, Arkansas.

Nothing contained herein shall be construed as limiting the rights of any consumer or agency of any state, local or federal government to take any action regarding Defendants' business activities. Nor shall this order or any provisions contained herein limit the court's remedies and orders regarding future acts of the Defendants or their representatives.

IT IS SO ORDERED.



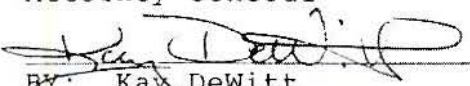
Chancellor Vann Smith


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DATED: \_\_\_\_\_

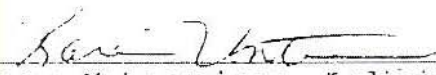
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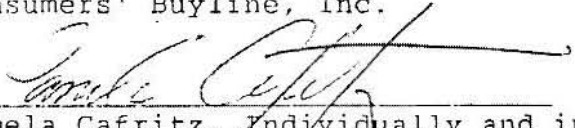
Winston Bryant  
Attorney General

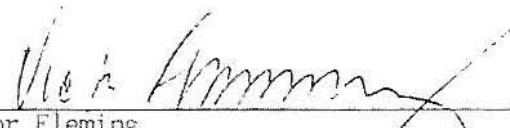
  
BY: Kay DeWitt  
Deputy Attorney General of Arkansas

  
Keith Raniere, Individually and in his  
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Consumers' Buyline, Inc.

James Raniere, Individually and in his  
capacity as Director of Consumers' Buyline, Inc.

  
Karen Unterreiner, Individually and in her  
capacity as Treasurer of  
Consumers' Buyline, Inc.

  
Pamela Cafritz, Individually and in her  
capacity as Secretary of  
Consumers' Buyline, Inc.

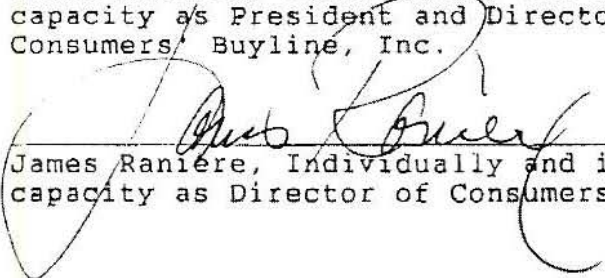
  
Victor Fleming  
Attorney for Consumer's Buyline, Inc.

APPROVED:

Winston Bryant  
Attorney General

BY: Kay DeWitt  
Deputy Attorney General of Arkansas

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